

REMARKS

I. Status of the Claims

Claims 1-69 were initially filed. Claims 11-21 and 24-69 have been withdrawn from consideration as the result of a restriction requirement. Upon entry of the present amendment, claims 1-9, 22, and 23 remaining pending, whereas the non-elected claims and claim 10 are canceled. The Examiner has indicated the allowability of claims 4 and 5 except for their dependency from a rejected claim.

Claim 1 is amended to recite an amino acid sequence having at least 80% amino acid sequence identity to SEQ ID NO:4, in place of the hybridization language. Support for 80% sequence identity can be found in the specification, *e.g.*, on page 16, lines 12-18. Claim 2 is amended to delete the recitation of "specifically" before the word "binds." Claim 9 is amended to recite a 90% sequence identity instead of 60% sequence identity, which is also supported by the specification, *e.g.*, on page 16, lines 12-18. No new matter is introduced by the present amendment.

II. Claim Rejections

A. 35 U.S.C. §112, Second Paragraph

Claim 2 was rejected under 35 U.S.C. §112, second paragraph, for alleged indefiniteness. Specifically, the Examiner stated that claim recites the term "specifically binds," which is a relative term with unclear metes and bounds. This claim has been amended to recite "binds" instead of "specifically binds," as suggested by the Examiner. Applicants submit that the indefiniteness rejection is overcome and thank the Examiner for his helpful suggestion.

B. 35 U.S.C. §102

Claims 1-3, 6-10, 22, and 23 were rejected under 35 U.S.C. §102(b) for alleged anticipation by Joiner *et al.* Applicants respectfully traverse the rejection.

To anticipate a pending claim, a prior art reference must explicitly or implicitly disclose all limitations of the claim. MPEP §2131. As amended, the pending claims are drawn to a nucleic acid encoding a polypeptide that comprises an amino acid sequence at least 80%

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identical to SEQ ID NO:4. In the Joiner *et al.* reference, a nucleic acid encoding a potassium channel is described. This potassium channel has an amino acid sequence 75% identical to SEQ ID NO:4. The Joiner reference therefore does not disclose the claim limitation of 80% or more sequence identity to SEQ ID NO:4 and cannot anticipate the pending claims.

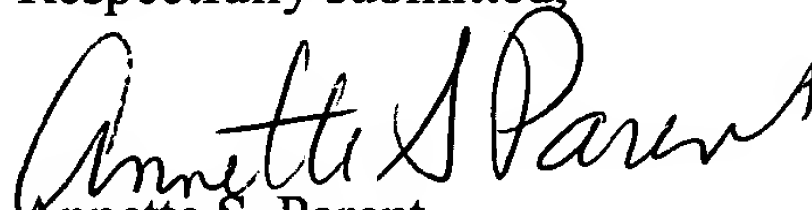
The withdrawal of the anticipation rejection is respectfully requested.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,


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